IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED: 7.8.2006

CORAM

THE HON'BLE MR.JUSTICE P.JYOTHIMANI

Writ Petition No.18333 OF 2006

Dr.Pon.Sundar, M.Sc., Ph.D.,
Controller of Examinations,
Thiruvalluvar University,
Fort Campus, Vellore - 4 .. Petitioner

vs.

1. The Director In-charge
   Collegiate Education
   Chennai - 600 006

2. The Registrar In-charge
   Thiruvalluvar University
   Vellore - 4 .. Respondents

This Writ Petition is filed under Article 226 of the Constitution of India praying for the issuance of a writ of Certiorari to call for the records and quash the orders of the Director incharge of Collegiate Education, the first respondent herein, in Na.Ka.No.15011/F1/2006 dated 29.5.2006 and to hold the same as illegal and null and void and consequently direct the second respondent herein not to take any action in pursuance of the orders of the Director incharge of the Collegiate Education and to allow the petitioner to continue as Controller of Examinations at Thiruvalluvar University, Vellore.

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For petitioner : Mr.M.Vembadiyan
For respondents : Mr.P.Gopiraja
Government Advocate for R1
Mr.M.Sekar for R2

O R D E R

The petitioner was appointed as Controller of Examinations in the second respondent-University for a period of three years. Even

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though the second respondent has issued an advertisement calling for applications to the post of Controller of Examinations, the petitioner, who is working as a reader in one of the Government Aided Colleges, has also applied for the post. Ultimately, the petitioner was selected by the second respondent to the post of Controller of Examinations and the same was intimated by an order dated 31.3.2005 as per the terms of appointment stating that it is for a period of three years and also that during the period of deputation, the University has a right to repatriate the candidate to the parent department at any time without assigning any reason, however, after giving one month's notice. Based on the said order, the petitioner has been appointed in the second respondent-University and he has completed one year of service. After completion of one year of service, the first respondent has passed the impugned order refusing to extend deputation to the petitioner in the University service beyond one year. It was based on the said impugned order, the second respondent-University by its resolution dated 31.5.2006 has also relieved the petitioner as Controller of Examinations. The petitioner assails the impugned order of the first respondent on various grounds including that inasmuch as the second respondent-University is an independent body governed by statutes and the appointment of the petitioner as Controller of Examinations is for a tenure of three years, before three years neither the first respondent nor the second respondent has any right to interfere except in accordance with terms of appointment made to the petitioner by the second respondent dated 31.3.2005. According to the petitioner, it is the second respondent who can terminate the deputation and not the first respondent.

2. The second respondent has filed the counter-affidavit. The second respondent specifically states that by a resolution of the University dated 31.5.2006, the University has relieved the petitioner based on the impugned order passed by the first respondent dated 29.5.2006. The case of the respondents is that inasmuch as the petitioner was working as a reader in an Aided College, his appointment to the second respondent-University is on a deputation basis. As per the Government Order in G.O.Ms.No.1594 Education (G-2) Department dated 7.11.1989 in case of deputation of Aided College teachers, order for one year shall be passed by the Government and in respect of 2nd and 3rd years, delegation of power have been given to the Director of Collegiate Education.

3. It is further case of the respondents that in pursuant to the said G.O.Ms.No.1594 dated 7.11.1989, the Government has passed the order in G.O.Ms.No.211 Higher Education (K2) Department dated 10.8.2005 stating that the petitioner shall not be permitted to continue on deputation in the second respondent-University service beyond one year. It was based on the said Government Order, the first respondent has passed the present impugned order terminating the

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deputation of the petitioner to the University service. It is only consequent to the said termination order, the University has passed further relieving order. In view of same, the 2nd respondent contended that in fact nothing survives in the regularisation as a matter of right, since the petitioner was an independent candidate who completed one year term of service and who was appointed by way of deputation. When once the deputation stands cancelled, the petitioner has no right.

4. I have considered the rival contentions of Mr.M.Vembadiyan, learned counsel for the petitioner and also Mr.P.Gopiraja, Government Advocate for 1st respondent and Mr.M.Sekar for 2nd respondent.

5. On the face of it, even though it is seen that the appointment of the petitioner by the syndicate of the second respondent-University is for three years tenure, admittedly the tenure can be terminated at any time without assigning any reason as the right of the petitioner is only to have one month prior notice from the University. But in the present case, though the service of the petitioner is under the second respondent-University, the permission has to be granted by the first respondent since the petitioner is working in Aided Private College. As rightly pointed out by the learned counsel for the respondents that as per the said G.O.Ms.No.No.1594 Education (G-2) Department dated 7.11.1989, the right of granting of deputation for the first year is with the Government and for the second and third years, the same has been delegated to the first respondent. By virtue of the power conferred under the said G.O., the Government has in fact passed another Government Order on 10.8.2005 in G.O.(ID) No.211 Higher Education (K2) Department, terminating the deputation of the petitioner to the second respondent-University.

6. Therefore, the impugned order is only a consequential order. It is only consequent to G.O.(ID) No.211 Higher Education (K2) Department dated 10.8.2005. Hence the termination of the deputation order passed by the Government dated 10.8.2005 cannot be assailed by the petitioner.

7. I am of the considered view that the impugned order which is only consequential in nature cannot also be equally questioned. One other circumstance in the case is that only the deputation service of the petitioner is cancelled and the petitioner will be reverted back as a reader to the Aided College. Therefore, the condition of service of the petitioner is also not affected.

8. In view of the same, looking at any angle, I am of the considered view that the petitioner has absolutely no grievance.

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9. The writ petition is dismissed. No costs. Consequently, connected M.P.No.1 of 2006 is closed.

Sd/-
Asst. Registrar

//true copy//

Sub Asst.Registrar

To

1. The Director In-charge
   Collegiate Education
   Chennai - 600 006

2. The Registrar In-charge
   Thiruvalluvar University
   Vellore - 4

+ one cc to M.Sekar and Shanmughavalli Sekar, Advocate Sr.No.35313.
+ one cc to Government Pleader, Sr.No.35331.

MR (CO)
RSM/24.8.2006

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